

## DOCKET NO. SUD-002-USA-P

## REMARKS

Claims 2, 4 and 5 have been cancelled, and claims 1, 3 and 6-7 have been amended to more definitely set forth the invention and obviate the rejection. Support for the amendment of Claims 1, 3 and 6-7 can be found in original claims 2, 4 and 5, and the Specification on page 3, lines 14-18, page 5, line 2 and line 21, page 7, Table 1, fourth line thereof. In addition, new Claims 8-12 are presented. Support for new Claims 8-12 can be found in the Specification on pages 4, lines 12-21, page 6, line 2. The present amendment is deemed not to introduce new matter. Claims 1, 3 and 6-12 are in the application. Claims 6 and 7 having been withdrawn from consideration being directed to a non-elected invention.

With regards to the Examiner's comments concerning applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Japan on December 29, 1998, it is believed that a claim for priority based in the above statutes CAN be properly claimed. In particular, the present application was actually filed in the U.S. on November 9, 1999, less than one year after said Japanese filing date.

It is believed that the confusion with regards to the filing date herein result from the unintentional abandonment of this application. In particular, the application was unintentionally abandoned for failure to reply to the Notice of Missing Parts mailed December 8, 1999. However, upon learning of same, a Petition to Revive Pursuant to 37 C.F.R. 1.137(b) was filed on October 3, 2001, as well as a proper Response to the Notice of Missing Parts, a copy of said Petition and Response being attached hereto for the Examiner's convenience. Thereafter, the petition was granted on October 16, 2001, as evidenced by the Notice received from the Office of Petitions attached hereto.

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Therefore, it is believed that the actual filing date of November 9, 1999 is maintained, which allows the applicant to properly claim the benefit of the earlier filed Japanese application. To further confirm this belief, we have this dated telephoned the Office of Petitions to discuss this matter, and were informed that, in fact, the original filing date herein was accorded to this application by the granting of our Petition mentioned above.

Thus, claim for priority under 35 U.S.C. 119(a)-(d) is again requested, and withdrawal of the rejection of said previous request therefor is accordingly respectfully requested.

Reconsideration is respectfully requested of the rejection of Claims 1-5 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has now been amended to recite "low alcohol content sake" in the preamble. It is believed that support for this amendment can be found on page 4, lines 13-18, in combination with the content of Table 1 on page 7 of the specification. In particular, it can be seen that the alcohol concentration of the present invention, of 4-6% is generally low, in comparison to other sake beverages. Claim 1 has further been amended to clarify and provide antecedent support for the phrases "the clear liquid", "the other part", and "the above unrefined sake".

In addition, claim 1 has been amended to change "multiple acids" to "one or more acids". This amendment is believed to more definitely define the scope of the term "multiple acids". Further, new claim 12 has been added, which limits same to lactic acid.

With regards to claim 3 and 4, the phrase "acidity 3-4" has been amended to now recited "an acidity of 3 - 4 pH". It is believed that support for this amendment is inherently provided, as one of

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ordinary skill in the art would realize that an acidity value of 3-4 is a value on the pH scale. Further, with regards to the term "Japanese sake scaling", it is respectfully submitted that this term is a recognized term in the sake manufacturing industry. In particular, as described in the attached "SakeExpert.com" excerpt, sake scale is "a combination of indicators that gives you an idea of what a sake tastes like as accurately and concretely as possible". In the present invention, the low alcohol content sake claimed herein has a sake scaling of between -70 and -90, indicating a very sweet flavor.

In view of the amendments made to claims 1, 3 and 4 herein, as well as the clarification of terms provided above, it is believed that the rejection is now moot. Withdrawal of the rejection is accordingly respectfully requested.

Reconsideration is respectfully requested of the rejection of Claims under 35 U.S.C. § 102(a) as being anticipated by Ninchiyouji, et al. (Jap. Pat. No. 410295356).

As discussed above, it is respectfully submitted that the present application is entitled to a U.S. filing date of November 9, 1998, and an effective priority date of December 29, 1998. The cited Ninchiyouji, et al. reference has a publication date of November 10, 1998. Thus, the cited Ninchiyouji, et al. reference was published less than one year before the U.S. filing date of the present application. As such, it is believed that the cited Ninchiyouji, et al. reference fails to qualify as a reference under 35 U.S.C. 102(b).

Further, the cited Ninchiyouji, et al. reference fails to disclose performing the filtration steps claimed herein within a closed system, as claimed in claims 4 and 5. Rather, such a teaching comes only from the present invention, and constitutes an important element or aspect thereof.

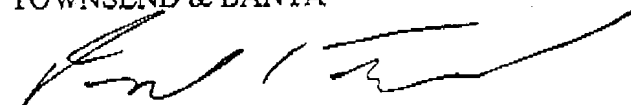
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In view of the foregoing, it is respectfully submitted that the rejection fails in view of the above. Consequently, the Examiner would be justified in no longer maintaining the rejection. Withdrawal of the rejection is accordingly respectfully requested.

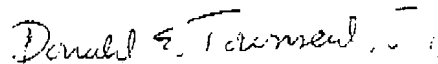
In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance and early action and allowance thereof is accordingly respectfully requested. In the event there is any reason why the application cannot be allowed at the present time, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems.

Respectfully submitted

TOWNSEND & BANTA



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Date: February 2, 2004

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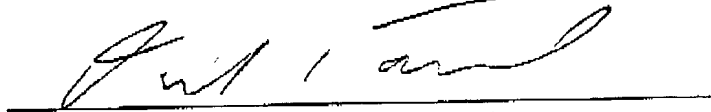
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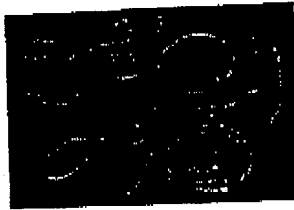
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On February 2, 2004.

Donald E. Townsend

A handwritten signature in dark ink, appearing to read "Donald E. Townsend", is written over a horizontal line.



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Sake Highlights:

•3 ways to serve

•How to store sake

SAKE SERVICE  
INSTITUTEIntroducing Japanese Sake  
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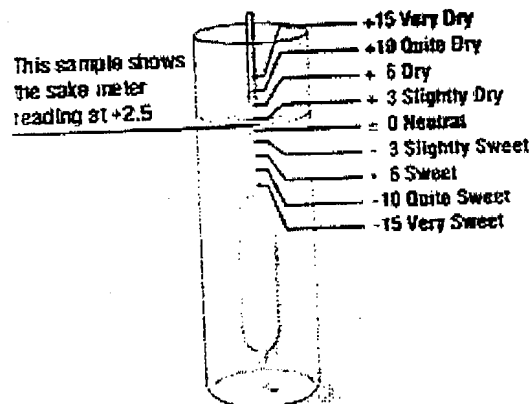
## What is SAKE SCALE?

Sake Scale is a combination of indicators that gives you an idea of what a sake tastes like as accurately and concretely as possible. As you find in the product pages on this site, each sake is assigned a barometer of acidity, alcohol percentage, and Sake Meter Value or *Nihonshudo*.

## What is SAKE METER VALUE?

Like wines, a sake can be defined either as dry or sweet as its basic characteristics. In Japan, *Nihonshudo*, or the Sake Meter Value, is often used to determine whether a sake is either dry or sweet, or in between, by measuring the amount of residual sugar and alcohol in it. In this measurement, water is given a value of  $\pm 0$ , and a sake with Sake Meter Value of  $\pm 0$  should taste neutral, neither dry nor sweet. As shown in image 1, a positive value means less residual sugar and therefore a drier sake. Likewise, a negative value indicates a sweeter sake.

Image 1): SAKE METER and SAKE METER VALUES



## What is TOTAL PERCEPTION CHART?

As reliable a Sake Meter Value would be, acids and other elements can mask the real residual sugar amount. For example, a higher level of acidity can make a sweet sake taste drier than it actually is. To give a more accurate evaluation of sake, therefore, total acidity is used as another

2/2/2004

indicator (image 2).

Image 2): TOTAL PERCEPTION CHART

